Criminal Revision No.363 of 1992.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Ram Kishan and another **...**Petitioners

VERSUS

State of Haryana **...**Respondent

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

CORAM :

HON'BLE MR. JUSTICE MOHINDER PAL.

Present: Mr. Vaneet Sharma, Advocate,
for the petitioners.

Mr.S.S. Goripuria, Deputy Advocate General, Haryana.

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MOHINDER PAL, J.

Petitioners Ram Kishan and Ram Dia along with their co-accused Smt. Krishna and Smt. Guddi were tried by the Judicial Magistrate Ist Class, Jind, for the offences punishable

under Sections 323, 324 and 326 read with Section 34 of the Indian Penal Code (for short `the Code'). Vide judgment dated December 13, 1991, passed by the trial Judge, co-accused Krishna and Guddi were acquitted of the charges framed against them and the petitioners were convicted for the offences punishable under Sections 323, 324 and 326 read with Section 34 of the Code. Vide sentence order dated December 13, 1991, the trial Judge sentenced each of the petitioner to undergo rigorous imprisonment for six months under Section 323 of the Code, to under rigorous imprisonment for one year under Section 324 of the Code and to undergo rigorous imprisonment for two years and to pay fine of Rs.500/- under Section 326 of the Code. It was further ordered that the amount of fine of Rs.1,000/- recovered from the petitioners will go to both the injured Ram Singh and Smt. Ram Ratti in equal shares as compensation. The substantive sentences of imprisonment were ordered to run concurrently. Against their conviction and sentence, the petitioners preferred an appeal before the Court of Session at Jind and the same was dismissed by the learned Additional Sessions Judge, Jind, vide judgment dated May 08, 1993. Hence, this revision petition by the petitioners.

2. The present case was registered on the statement of Smt. Ram Ratti (P.W.3). On August 20, 1986, at about 7 A.M her husband Ram Singh (P.W.2), who was then posted as a Teacher in the Village School, was going to fetch milk from the house of Dhajja Ram. When he reached near the house of

petitioner Ram Kishan, he was waylaid by petitioner Ram Kishan, who was also armed with a `Jailli' and Ram Dia, who was armed with a `Gandasi'. Petitioner Ram Kishan gave a `Jailli' blow on the head of Ram Singh from behind and petitioner Ram Dia gave him a `Gandasi' blow on his head. Rikhia and Lichhmi Narain reached the spot on hearing the alarm. Ram Ratti (complainant- P.W.3) and her daughter Giatri Devi also reached the spot. Co-accused Smt.Krishna and Smt.Guddi (since acquitted) also came to the spot with `Lathis' and gave beating to the complainant and her daughter.

After completion of investigation, challan was presented against the accused.

3. At the trial, the prosecution examined Dr. Ramesh Kumar (P.W.1), Ram Singh (P.W.2), Ram Ratti (P.W.3), Giatri Devi (P.W.4), Laxmi Narain (P.W.5), Assistant Sub Inspector Rajinder Singh (P.W.6) and Dr. R.K. Gupta (P.W.7).

4. In their statements recorded under Section 313 of the Code of Criminal Procedure, the accused denied the prosecution allegations and pleaded false implication. Accused Ram Kishan stated that on the day of occurrence, he was coming with vegetables after purchasing the same from the shop of one Badri. Ram Singh (P.W.2) gave him a `Jailli' blow `Lathiwise'. On hearing the alarm, accused Ram Dia, Smt. Krishna and Smt.Guddi came to the spot. Ram Dia pulled him (Ram Kishan) in order to save him from his clutches of Ram Singh (P.W.2), as a result of which head of Ram Singh struck against a corner of the

wall and he received injuries from his own weapon which he was carrying. It is also stated that the accused were empty handed. It is also the version of the accused that wife of Ram Singh and his daughter Giatri Devi pressed Smt. Guddi wife of Ram Dia under them in order to cause her injuries. Then Smt. Krishna and Smt. Guddi also caused injuries to the wife and daughter of Ram Singh. Ram Kishan accused further stated that he received injuries in this occurrence for which he was medico-legally examined after three days in Civil Hospital, Jind, because police had arrested him. He also stated that Shiv Narain, Laxmi Narain and Ram Sahai had come to the spot. Accused Ram Dia, Smt. Krishna and Smt. Guddi also made statements to similar effect.

In defence, the accused examined Dr.Narveer Singh (D.W.1), Ram Sahai (D.W.2) and Shiv Narain (D.W.3).

5. I have heard the learned counsel for the parties and have gone through the records of the case.

6. In this case ocular version has been given by P.W.2 Ram Singh, P.W.3 Ram Ratti and P.W.3 Giatri Devi. P.W.2 Ram Singh and P.W.3 and injured witnesses. In fact, as stated above, the accused in their statements recorded under Section 313 of the Code of Criminal Procedure have admitted the occurrence. The ocular version is supported by the medical evidence and there is no conflict at all between them.

Dr.A.K. Gupta (P.W.7) had medco-legally examined Ram Singh (P.W.2) and had observed two incised wounds on

his head. He opined that the kind of weapon used for causing these injuries was sharp. The injuries were kept under observation.

Dr. A.K. Gupta (P.W.7) also medico-legally examined Ram Ratti (P.W.2) and observed one lacerated wound on the left parietal region of scalp and and one contusion on the infra-scapular region on right side of back of chest along with swelling. Both the injuries were caused by blunt weapon and were kept under observation.

Dr.Romesh (P.W.1), who had got radiologically examined Ram Singh, stated that both the injuries on the head of Ram Singh revealed fracture of right side of skull with no callous formation.

Dr.Romesh had also got radiologically examined Ram Ratti (P.W.3). However, there was no bone injury.

Learned counsel for the petitioners argued that petitioner Ram Kishan was an old man of about 80 years at the time of occurrence and he could not inflict a `Jailli' blow on the head of Ram Singh. This argument of the learned counsel is of no help because the involvement of Ram Kishan in the occurrence stands proved from the defence version itself put forward by the accused. The accused in their statements have stated about presence of Ram Kishan at the time of occurrence. Dr.Narveer Singh (D.W.1), who had been examined to prove three injuries on the person of Ram Kishan, in his cross-examination stated that possibility of these injuries being self-suffered could

not be ruled out. All the injuries on the person of Ram Kishan were found simple in nature. Moreover, the occurrence had taken place on August 20, 1986 while Ram Kishan was medico-legally examined on August 23, 1986. If the injuries were caused to Ram Kishan by the complainant party, certain action would have been taken by the police against the complainant party. No complaint was filed by the accused against the complainant party for causing injuries to Ram Kishan, in case police was not taking any action against the complainant party for the injuries inflicted by them. Thus, only on the ground of age, it cannot be assumed that Ram Kishan did not inflict injury on the person of Ram Singh. In fact, an injured is the last person to screen the real assailant or culprit.

The defence version put forward by the accused also does not inspire any confidence. It is no where the version of the accused that Ram Dia accused inflicted injuries on the person of Ram Singh in order to save his father. Rather, it is very interesting to note that the defence version, as is disclosed by the accused in their statements under Section 313 of the Code of Criminal Procedure, is that Ram Dia pulled Ram Kishan in order to save him from the clutches of Ram Singh (P.W.2), as a result of which head of Ram Singh struck against a corner of the wall and he received injuries from his own weapon which he was carrying. It is also version of the accused that they were empty handed. However, there is positive direct evidence a well as medical evidence that injuries on the person of Ram Singh were caused

with a sharp edged weapon. No case of self defence or right to exercise private defence to defend Ram Kishan is made out from the evidence adduced in the case. Statements of defence witnesses, namely, Ram Sahai (D.W.2) and Shiv Narain (D.W.3) are not consistent with the medical evidence and do not explain the nature of injuries caused to Ram Singh and Ram Ratti injured P.Ws and, therefore, do not inspire confidence. In fact Ram Sahai (D.W.2) is real brother of Ram Singh (P.W.2). In his cross-examination, he admitted that there was some land dispute between him and Ram Singh, for which a partition was effected as a result of compromise by the Panchayat three times. Writings about partition are Exhibits D.2, D.3 and D.4.

7. As a result of the above discussion, I am of the considered view that the conviction of the petitioners recorded by the trial Court and upheld by the lower appellant Court do not call for any interference in exercise of the revisional jurisdiction of this Court. The sentence order also does not warrant any interference. The sentences commensurate with the offences committed by the petitioners. This revision petition is, accordingly, dismissed.

November 05, 2007. **(MOHINDER PAL)**
ak **JUDGE**